

REMARKS

This amendment is supplemental to the amendment filed on September 23, 2008. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

By this amendment, independent claims 1 and 11 have been amended to further define the subject matter Applicant regards as the invention as discussed in greater detail below. Claims 4-10 and 14-20 remain unchanged in the application.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. After amending the claims as set forth above, claims 1, 4-11 and 14-20 remain pending in this application for consideration.

Applicant respectfully submits that the claims are patentably distinguishable over the cited references as required by § 102 and § 103. Applicant further submits that none of the cited references, whether considered alone or in combination, discloses Applicant's claimed data providing apparatus having a selection unit that calculates an evaluation of a plurality of image forming apparatuses and selects one image forming apparatus based on *the selection condition, a plurality of status information and specifications of the printing data* with the selection condition including *a distance from the data providing apparatus to the image forming apparatus, printing time of the image forming apparatus, and stability of printing processing of the image forming apparatus* as now required by amended independent claim 1. Amended independent claim 11 is substantially similar in scope to amended independent claim 1 and includes the same patentable feature in the context of a step of a data providing method. By contrast, the cited references fail to disclose, teach or suggest this claimed feature, step and arrangement. Accordingly, independent claims 1 and 11 and claims dependent therefrom are patentably distinguishable over the cited references. This distinction will be further described below.

THE CLAIMS DISTINGUISH OVER THE CITED REFERENCES

Claims 1-3, 9-13, 19 and 20 stand rejected as being anticipated by Owa. In response, Applicant traverses this rejection and respectfully submits that the claims are allowable at least for the reason that follows.

Applicant relies on MPEP § 2131, entitled “Anticipation – Application of 35 U.S.C. 102(a), (b), and (e),” which states that a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Section 103 amplifies the meaning of this anticipation standard by pointing out that anticipation requires that the claimed subject matter must be “*identically* disclosed or described” by the prior art reference. (Emphasis added.) It is respectfully submitted that the Owa reference does not describe each and every element of any pending claim.

Embodiments of the present invention are directed either to a data providing apparatus or a data providing method. The data providing apparatus according to independent claim 1 includes an input unit, a setting unit, an acquiring unit, a selection unit and a transfer unit. The input unit inputs printing data while the setting unit sets a selection condition. The acquiring unit is connected to a network and acquires a plurality of status information concerning a plurality of image forming apparatuses on the network. The selection unit calculates an evaluation of the plurality of image forming apparatuses and selects one image forming apparatus according to a calculation result. The transfer unit transfers the printing data input by the input unit in order to provide the printing data to the one image forming apparatus selected by the selection unit.

According to one embodiment of the present invention as required by amended independent claim 1, the selection unit calculates the evaluation of the plurality of image forming apparatuses and selects one of the image forming apparatuses based on *the selection condition, a plurality of status information and specifications of the printing data* with the selection condition including *a distance from the data providing apparatus to the image forming apparatus, printing time of the image forming apparatus, and stability of printing processing of the image forming apparatus*. Amended independent claim 11 is substantially

similar in scope to amended independent claim 1 and includes the same patentable feature in the context of a step of a data providing method. In particular, independent claims 1 and 11 have been amended to remove the “at least one of” language and require the selection condition to include the distance, printing time and stability of the image forming apparatus. With this feature, step and arrangement, a printing task can be sent to an optimum printing device automatically selected from a plurality of printing devices on the network when the printing environment which a user desires is set (Specification, page 2, lines 1-5 and page 14, line 22 through page 15, line 15). One exemplary embodiment of the present invention is illustrated in FIGS. 1, 4 and 5 which shows the selection unit 25 making a selection based on the selection condition (i.e., at least one of a distance from the data providing apparatus to the image forming apparatus, the printing time of the image forming apparatus or the stability of printing processing of the image forming apparatus), a plurality of status information and specifications of the printing data (page 9, line 24 through page 10, line 12). Applicant respectfully submits that the Owa reference fails to disclose this claimed feature, step and arrangement as well as the added benefits provided.

As stated previously, the Owa reference is directed to a printing system and method for enabling a particular printer to be selected from among many printers connected to a host computer (Owa, paragraph 2, lines 1-5). Although Owa appears to disclose selecting a printer from a plurality of printers on the network based arguably on distance and speed (paragraph 71, lines 19-24) Owa fails to specifically disclose making a selection based on the **selection condition** (i.e., *a distance from the data providing apparatus to the image forming apparatus, the printing time of the image forming apparatus **and** the stability of printing processing of the image forming apparatus* as now specifically required by the claims. Owa is completely silent with respect to this claimed feature, step and arrangement. This shortcoming of Owa defines at least one patentable deficiency in the reference. For anticipation, however, “every element and limitation of the claimed invention must be found in a single prior art reference, **arranged as in the claim.**” *Brown v. 3M*, 60 USPQ2d 1375 (Fed. Cir. 2001).

The well known prior art, the Taniguchi reference, the Clough reference and the Kitada reference were relied upon to address various features of some of the dependent

claims. Applicant respectfully submits that these references also fail to disclose the claimed feature, step and arrangement discussed above and were not cited for that purpose.

In view of the fact that the Owa reference does not disclose this claimed feature, step and arrangement indicated above, this reference cannot be said to anticipate nor can it be said to render obvious the invention which is the subject matter of independent claims 1 and 11. Thus, independent claims 1 and 11 are allowable.

Since independent claims 1 and 11 are allowable, claims dependent therefrom, namely claims 4-10 and 14-20 are also allowable by virtue of their direct or indirect dependence from allowable independent claims 1 and 11 and for containing other patentable features. Further remarks regarding the asserted relationship between any of the claims and the cited reference are not necessary in view of their allowability. Applicant's silence as to the Office Action's comments is not indicative of being in acquiescence to the stated grounds of rejection.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith,


Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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